IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 854 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE D.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

HIRACHAND INVESTMENTS

Versus

PATEL PARSANBEN AMRUTLAL

Appearance:

1. Civil Revision Application No. 854 of 1994

MR RR MARSHALL for Petitioner No. 1

RULE SERVED for Respondents No. 1-4

CORAM : MR.JUSTICE D.K.TRIVEDI

Date of decision: 22/03/2002

ORAL JUDGEMENT

The petitioner - original defendant no. 4 has challenged the order passed by the learned Trial Judge below Application Ex. 143 in Regular Civil Sui No. 967/1982, wherein, the learned Trial Judge has while

considering the application Ex. 143 filed by the petitioner through his advocate on 21st June, 1993 has requested the Court to exhibit documents being mark 80/3 to 80/6 and 138/1 to 138/4 as according to the defendant this documents are proved during the evidence of defendant no. 4. Dealing with the said application and considering the stand taken by the respondent-plaintiff, wherein the plaintiff has oppose the request made by the defendant and while considering the application, the learned Judge has observed that plaintiff from the beginning of the case has objected that no intimation was given by the defendant to the plaintiff as highlighted in the letters referred to by the petitioner and it is only the defendant is required to prove such documents by examining the witnesses. The learned Judge has also observed even in respect of registered letter issued by defendant to the plaintiff but the acknowledgment receipt is not produced and therefore, after considering the facts and evidence on record, learned Judge has rejected the application.

2. It is the case of the petitioner before this Court that plaintiff has filed suit for seeking specific performance of immovable properties in the year 1982 and the property is situated at Udhna Industrial Estate bearing plot No.41 in Revenue Survey No.26 admeasuring 15X16 ft in land and having total 900 sq.ft and/or 100" se. yd. It is the case of the petitioner that while examining defendant no. 4, these documents are proved and inadvertently these documents are not exhibited and accordingly application for exhibiting the said documents is submitted.

3. Considering the order under challenge, this is not a matter wherein this court is required to entertain the revision application while exercising my revisional jurisdiction under Section 115 of the CPC. and even as per the settled legal position, trial court is required to appreciate the evidence as a whole at the end of the trial. Accordingly there is no substance in the revision application and the same is rejected. Rule is discharged. Interim relief granted earlier stands vacated. As the suit is of the year 1982, learned trial Judge is directed to dispose of the Regular Civil Suit No. 967/82 as expeditiously possible in accordance with law.

(D.K. Trivedi, J.)

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